

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff/Respondent,

v.

Criminal Case No. 12-20218-8

Civil Case No. 16-14523

David Lamont Holland (D-8),

Sean F. Cox

Defendant/Petitioner.

United States District Court Judge

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ORDER TRANSFERRING
SECOND OR SUCCESSIVE § 2255 MOTION

In Criminal Case Number 12-20218, Defendant David Lamont Holland pleaded guilty to robbery and firearms offenses under a Rule 11 Agreement. This Court sentenced him to a total term of imprisonment of 240 months. (*See* 2/24/14 Judgment, ECF No. 283). Holland did not file a direct appeal.

On June 16, 2016, Holland filed a *pro se* motion under 28 U.S.C. § 2255, seeking relief based upon *Johnson v. United States*, 135 S.Ct. 2251 (2015). This Court denied Holland's § 2255 motion in an Opinion & Order issued on March 29, 2017. (ECF No. 420). This Court also declined to issue Holland a certificate of appealability and certified, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal could not to be taken in good faith. (*Id.* at Pg ID 3819). The Court issued a Judgment as to Holland's § 2255 motion on March 29, 2017. (ECF No. 421).

On June 10, 2020, Holland filed another Motion to Vacate Sentence Under 28 U.S.C. § 2255 (ECF No. 500).

A defendant seeking to file a second or successive motion under 28 U.S.C. § 2255 must

first ask the appropriate court of appeals for an order authorizing the district court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A); 28 U.S.C. § 2255(h). When a defendant files a second or successive motion in the district court without authorization from the court of appeals, the district court must transfer the motion to the court of appeals pursuant to 28 U.S.C. § 1631. *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Holland has not obtained authorization from the Sixth Circuit to file a second or successive petition in this Court. Thus, this Court lacks jurisdiction over this successive § 2255 motion and the matter must be transferred to the Sixth Circuit.

Accordingly, IT IS ORDERED that the Clerk shall TRANSFER the June 10, 2020 motion to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: June 24, 2020